

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:	:	Bankruptcy No. 15-22330-CMB
	:	
ODYSSEY CONTRACTING CORP.,	:	Chapter 7
	:	
<i>Debtor</i>	:	
	:	
Natalie Lutz Cardiello, Trustee	:	
Movant	:	
	:	
v.	:	
	:	
No Respondent	:	

TRUSTEE'S APPLICATION TO EMPLOY SPECIAL COUNSEL

AND NOW, comes Natalie Lutz Cardiello, Trustee for the estate of the above named Debtor, and files this Application to Employ Special Counsel, stating in support thereof as follows:

1. This case was commenced by the filing of a Voluntary Petition on June 29, 2015.
2. This matter was converted from a chapter 11 to a chapter 7 on October 4, 2022.
2. Natalie Lutz Cardiello was appointed as Chapter 7 Trustee and has been so serving.
3. Among the assets of the estate are potential fraudulent transfer claims.
4. In order to pursue the claims, the services of experienced legal counsel to litigate and/or investigate these claims is necessary.
5. The Trustee respectfully requests that this Court approve the employment by the Trustee of KIRK B. BURKLEY, ESQUIRE and the firm of Bernstein-Burkley, PC to serve as special counsel to handle this matter.
6. KIRK B. BURKLEY, ESQUIRE is qualified to perform these services and has no conflict as set forth in the attached Verification.

7. The Trustee wishes to have KIRK B. BURKLEY, ESQUIRE and Bernstein-Burkley, PC handle this matter based on the following contingent fee structure:

- a. Bernstein will collect a contingency fee of 25% of the recovery on any Avoidance Action or other litigation or recovery the Trustee requests that Bernstein pursues, and is assigned to Bernstein after the date of this application and before any lawsuit or Adversary Proceeding is filed. This fee shall include the preparation and filing of Rule 9019 motions, if required. If an adversary proceeding or other legal action is filed, the contingency fee percentage will increase to 40% of the recovery. The Estate shall advance or reimburse costs and out-of-pocket expenses. Bernstein will consult with Trustee and obtain authority prior to filing any adversary proceeding.
 - b. In the event that the Trustee requests Bernstein to perform work and the estate receives a benefit due to the actions and/or work performed by Bernstein, but the benefit is not realized in the form of an affirmative or monetary recovery from which a contingent fee would be paid, Bernstein reserves the right to seek compensation by Application for its full hourly rates on such matters or tasks. The list of attorneys and other professionals at Bernstein with their 2022 hourly rates is attached as **Exhibit A** to the Verification. These hourly rates are subject to periodic adjustments to reflect economic and other conditions, and with respect to those below the level of senior partner, to reflect their increased experience and expertise in this area of the law.
 - c. If the right to a contingent fee is undisputed by the Trustee, and the matter from which fee is payable is approved by the Court in the context of a 9019 motion, the fee may be paid by the Trustee upon the Estate's receipt of the recovery amount, without the need for a fee application or further Order of Court so long as the fee is outlined in the 9019 motion.
8. Neither the Estate nor the Trustee will reimburse fees or costs unless monies are received.

9. The Trustee believes that the assistance of special counsel is necessary and critical to the successful recovery of assets involved in the pursuit of the matter.

10. The Trustee believes that the fee arrangement is reasonable.

WHEREFORE, the Trustee respectfully requests that she be authorized to employ KIRK B. BURKLEY, ESQUIRE and Bernstein-Burkley, PC to pursue the claim described herein under the terms indicated in this motion.

Dated: October 13, 2022

Respectfully submitted,

/s/Natalie Lutz Cardiello
Natalie Lutz Cardiello, Trustee
PA ID #51296
107 Huron Drive
Carnegie, PA 15106
(412) 276-4043
ncardiello@comcast.net